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Attorneys for Defendant SPRUCE HOLDINGS, LLC dba REDWOOD SPRINGS HEALTHCARE CENTER (erroneously sued and served as REDWOOD SPRINGS HEALTHCARE CENTER and SPRUCE HOLDINGS, LLC)

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MARX FORD, individually and as Successor in Interest to the Estate of Gennie Price, deceased; RODNEY FORD; MARVIN FORD; and MORRIS FORD,

Plaintiffs,

vs.

REDWOOD SPRINGS HEALTHCARE CENTER; SPRUCE HOLDINGS, LLC; and DOES 1 to 50, inclusive,

Defendants.

Case No. 1:21-CV-00871-NONE-SAB

[Removal from Superior Court of California, County of Tulare Case No. VCU286614]

DECLARATION OF KIM S. CRUZ IN SUPPORT OF DEFENDANT SPRUCE HOLDINGS, LLC dba REDWOOD SPRINGS HEALTHCARE CENTER'S OPPOSITION TO PLAINTIFFS' MOTION TO REMAND

U.S. Magistrate Judge: Stanley A. Boone

Hearing Date: August 5, 2021

Hearing Time: 9:30 a.m.

Courtroom: Courtroom 4

I, Kim S. Cruz, hereby declare:

1. The following is of my own personal knowledge and if called to testify thereto, I could and would do so competently. I am an attorney at law, duly licensed to practice in the State of California. I am an associate attorney at Wilson Getty LLP, attorneys of record for Defendant, SPRUCE HOLDINGS, LLC dba REDWOOD SPRINGS HEALTHCARE CENTER

2. A true and correct copy of Plaintiff's Complaint is attached to Defendant's Request for Judicial Notice as Exhibit "A".

1 3. A true and correct copy of the Declaration of Public Health Emergency for the 2019
2 Novel Coronavirus by the Health and Human Services Secretary is attached to Defendants' Request for
3 Judicial Notice as Exhibit "B".

4 4. A true and correct copy of the Proclamation of State of Emergency in California by
5 Governor Newsom is attached to Defendants' Request for Judicial Notice as Exhibit "C".

6 5. A true and correct copy of the Statement by World Health Organization Director
7 declaring that COVID-19 can be characterized as a global pandemic is attached to Defendants' Request
8 for Judicial Notice as Exhibit "D".

9 6. A true and correct copy of the Declaration of National State of Emergency by President
10 Donald Trump is attached to Defendants' Request for Judicial Notice as Exhibit "E".

11 7. A true and correct copy of California Executive Order N-27-20 signed by Governor
12 Newsom is attached to Defendants' Request for Judicial Notice as Exhibit "F".

13 8. A true and correct copy of Defendant's Notice of Removal filed June 1, 2021, is
14 attached to Defendant's Request for Judicial Notice as Exhibit "H."

15 9. A true and correct copy of the March 10, 2020 Declaration of United States Health and
16 Human Services Secretary invoking the Public Readiness and Emergency Preparedness Act for the
17 COVID-19 pandemic effective February 4, 2020 is attached to Defendants' Request for Judicial Notice
18 as Exhibit "I."

19 10. A true and correct copy of the April 10, 2020, Amended Declaration of the United States
20 Health and Human Services Secretary extending liability immunity to additional covered
21 countermeasures authorized under the Coronavirus Aid, Relief and Economic Security ("CARES") Act
22 (i.e., NIOSH approved respiratory protective devices), effective March 27, 2020 is attached to
23 Defendants' Request for Judicial Notice as Exhibit "J."

24 11. A true and correct copy of the June 4, 2020, Second Amendment to Declaration Under
25 the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-
26 19, Federal Register, Vol. 85, No. 110 is attached to Defendants' Request for Judicial Notice as Exhibit
27 "K."

1 12. A true and correct copy of the January 8, 2020, CDC Health Update regarding the
2 Outbreak of Pneumonia of Unknown Etiology (PUE) in Wuhan China, is attached to Defendants'
3 Request for Judicial Notice as Exhibit "L."

4 13. A true and correct copy of the January 17, 2020 CDC Interim Infection Prevention and
5 Control Recommendations for Patients with Known or Patients Under Investigation for 2019 Novel
6 Coronavirus (2019-n-coV) in a Healthcare Setting, is attached to Defendants' Request for Judicial
7 Notice as Exhibit "M."

8 14. A true and correct copy of the January 24, 2020 CDC Interim Infection Prevention and
9 Control Recommendations for Patients with Known or Patients Under Investigation for 2019 Novel
10 Coronavirus (2019-n-coV) in a Healthcare Setting, is attached to Defendants' Request for Judicial
11 Notice as Exhibit "N."

12 15. A true and correct copy of the February 1, 2020 CDC Health Update and Interim
13 Guidance on the Outbreak of 2019 Novel Coronavirus (2019-n-coV) is attached to Defendants'
14 Request for Judicial Notice as Exhibit "O."

15 16. True and correct copies of the California Department of Public Health ("CDPH") All
16 Facilities Letters (AFLs) pushing out the information and directives issued by the CDC with respect to
17 identification of PUI and infection prevention and control; AFLs 20-09, 20-10, 20-11, 20-13, and 20-
18 15, are attached collectively as Exhibit "P" to Defendants' Request for Judicial Notice.

19 17. A true and correct copy of the Centers for Medicare and Medicaid Services ("CMS")
20 February 6, 2020 Memorandum QSO 20-09-ALL instructing healthcare providers to adhere to CDC
21 directives regarding the use of standard, contact and airborne precautions when interacting with PUI, is
22 attached to Defendants' Request for Judicial Notice as Exhibit "Q."

23 18. A true and correct copy of the February 28, 2020, CDC Health Update and Interim
24 Guidance on the Outbreak of 2019 Novel Coronavirus (COVID-19) is attached to Defendants' Request
25 for Judicial Notice as Exhibit "R."

1 19. A true and correct copy of the March 3, 2020, CDC Strategies to Prevent the Spread of
2 COVID-19 in Long-Term Care Facilities (LTCF), is attached to Defendants' request for Judicial Notice
3 as Exhibit "S."

4 20. A true and correct copy of the March 3, 2020, CDPH All Facilities Letter AFL 20-17, is
5 attached to Defendants' Request for Judicial Notice as Exhibit "T."

6 21. A true and correct copy of the March 4, 2020, CMS Memorandum Infection Control and
7 Prevention of Coronavirus Disease 2019 (COVID-19) in Nursing Homes- QSO 20-14-NH, is attached
8 to Defendants' Request for Judicial Notice as Exhibit "U."

9 22. A true and correct copy of the March 8, 2020 CDC Updated Guidance on Evaluating
10 and Testing Persons for Coronavirus Disease 2019 (COVID-19), is attached to Defendants' Request for
11 Judicial Notice as Exhibit "V."

12 23. A true and correct copy of the March 10, 2020 CDC Interim Infection Prevention and
13 Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019
14 (COVID-19) in Healthcare Settings is attached to Defendants' Request for Judicial Notice as Exhibit
15 "W."

16 24. A true and correct copy of the March 10, 2020, CMS Memorandum QSO 20-17-ALL-
17 Guidance for use of Certain Industrial Respirators by Health Care Personnel, is attached to Defendants'
18 Request for Judicial Notice as Exhibit "X."

19 25. A true and correct copy of the March 11, 2020 CDPH All Facilities Letter AFL 20-22 is
20 attached to Defendants' Request for Judicial Notice as Exhibit "Y."

21 26. A true and correct copy of the March 13, 2020 CMS Memorandum QSO-20-14-NH-
22 Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in Nursing
23 Homes (REVISED), is attached to Defendants' Request for Judicial Notice as Exhibit "Z."

24 27. True and correct copies of the March 17, 2020 CDC documents containing strategies
25 for the optimizing the supply of eye protection, isolation gowns, N95 respirators and face masks, are
26 collectively attached to Defendants' Request for Judicial Notice as Exhibit "AA."

1 28. A true and correct copy of the March 20, 2020 CMS Memorandum QSO 20-20-ALL
2 Prioritization of Survey Activities, is attached to Defendants' Request for Judicial Notice as Exhibit
3 "BB."

4 29. A true and correct copy of the March 21, 2020, CDC publication entitled "Preparing for
5 COVID-19: Long-term Care Facilities Nursing Homes," is attached to Defendants' Request for
6 Judicial Notice as Exhibit "CC."

7 30. A true and correct copy of the April 2, 2020 CMS COVID-19 Long Term Care Facility
8 Guidance, is attached to Defendants' Request for Judicial Notice as Exhibit "DD."

9 31. A true and correct copy of the Department of Health & Human Services, Office of the
10 Secretary, General Counsel Advisory Opinion on the Public Readiness and Emergency Preparedness
11 Act and The March 10, 2020 Declaration Under the Act, April 17, 2020, as modified on May 19,
12 2020. is attached to Defendants' Request for Judicial Notice as Exhibit "EE."

13 32. A true and correct copy of the List of Covered Countermeasures subject to Emergency
14 Use Authorizations by the United States Food and Drug Administration which is attached to the April
15 17, 2020 Advisory Opinion is attached to Defendants' Request for Judicial Notice Exhibit "FF."

16 33. A true and correct copy of the Advisory Opinion 20-04, issued October 22, 2020 as
17 amended October 23, 2020, by General Counsel for the Department of Health & Human Services,
18 Office of the Secretary, is attached Defendants' Request for Judicial Notice as Exhibit "GG."

19 34. A true and correct copy of Advisory Opinion 21-01 on the Public Readiness and
20 Emergency Preparedness Act Scope of Preemption Provision January 8, 2021, issued by General
21 Counsel for the Department of Health & Human Services, Office of the Secretary, is attached to
22 Defendants' Request for Judicial Notice o as Exhibit "HH."

23 35. A true and correct copy of the December 3, 2020, Fourth Amendment to Declaration of
24 Health and Human Services Secretary Under the Public Readiness and Emergency Preparedness Act
25 for Medical Countermeasures Against COVID-19 is attached Defendants' Request for Judicial Notice
26 as Exhibit "II."

**Marx Ford, individually and as SII to the Estate of Gennie Price, et al. v. Redwood Springs
Healthcare Center, et al.**

**United States District Court, Eastern District of California
Case No. 1:21-cv-00871-NONE-SAB**

PROOF OF SERVICE

I am employed in San Diego County. I am over the age of 18 and not a party to this action. My business address is 12555 High Bluff Drive, Suite 270, San Diego, California 92130.

On **July 22, 2021**, I served the foregoing documents, described in this action as:

- **DECLARATION OF KIM S. CRUZ IN SUPPORT OF DEFENDANT SPRUCE HOLDINGS, LLC dba REDWOOD SPRINGS HEALTHCARE CENTER'S OPPOSITION TO PLAINTIFFS' MOTION TO REMAND**

addressed as follows:

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Jason S. Bell, Esq.
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Counsel for Plaintiffs

[X] By CM/ECF ELECTRONIC DELIVERY: In accordance with the registered case participants and in accordance with the procedures set forth at the Court's website www.ecf.cacd.uscourts.gov.

[X] STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **July 22, 2021** at San Diego, California.

F. Villalpando

Felicia Villalpando